## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

| JOHN M. SPAHN, IRA, on Behalf of Himself and | ) CASE NO.: 4:04-CV-00086 HEA |
|--|-------------------------------|
| All Others Similarly Situated,               | )                             |
|  | CONSOLIDATED CASE NOS.:       |
| Plaintiff,                                   | )<br>)                        |
|  | 4:04-CV-00118 CAS             |
| VS.  | 4:04-CV-00255 DJS             |
|  | 4:04-CV-00282 DJS             |
| EDWARD D. JONES & CO., L.P., THE JONES       | 4:04-CV-00466 HEA             |
| FINANCIAL COMPANIES, L.L.L.P., EDJ           | 4:04-CV-00467 HEA             |
| HOLDING COMPANY, INC., JOHN W.               | )<br>\                        |
| BACHMANN, DOUGLAS E. HILL, MICHAEL           | CLASS ACTION                  |
| R. HOLMES, RICHIE L. MALONE, STEVEN          | ) ————<br>)                   |
| NOVIK, DARRYL L. POPE and ROBERT             | <i>)</i>                      |
| VIRGIL JR.,                                  | )<br>\                        |
|  | )                             |
| Defendants.                                  | )                             |
|  | )                             |

## DECLARATION OF KIM E. MILLER IN SUPPORT OF PLAINTIFF'S MOTION TO ADJOURN JULY 28, 2005 HEARING DATE ON DEFENDANTS' MOTION TO DISMISS AND MOTION TO STRIKE

## KIM E. MILLER, hereby declares:

- 1. I am a member of the law firm of Milberg Weiss Bershad & Schulman LLP, Co-Lead Counsel for Plaintiffs in the above-referenced action. I submit this declaration to place before the Court certain information that is relevant to Plaintiffs' Motion to Adjourn July 28, 2005 Hearing Date on Defendants' Motion to Dismiss and Motion to Strike filed in the above-captioned case.
- 2. Attached hereto as Exhibit A is a true and correct copy of a December 22, 2004 Securities Exchange Commission ("SEC") Press Release and Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings and Imposing Remedial Sanctions in In the Matter of Edward D. Jones & Co., L.P., Admin. Proc. No. 3-11780.

- Attached hereto as Exhibit B is a true and correct copy of a December 20, 2004 3. NASD Department of Enforcement Letter of Acceptance, Waiver and Consent against Edward D. Jones & Co., L.P.
- Attached hereto as Exhibit C is a true and correct copy of a December 21, 2004 4. San Francisco Chronicle article by Kathleen Pender entitled Edward Jones Brokerage Sued by Lockyer over Mutual Fund Pay; Company's Proposed SEC Settlement Called Inadequate.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 8, 2005 in New York, New York.

By: Kim E. Miller